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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,715	02/12/2001	Michael J. Picciallo	P22,425-E USA	1933

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EXAMINER

KYLE, CHARLES R

ART UNIT	PAPER NUMBER
3624	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/781,715

Applicant(s)

PICCIALLO ET AL.

Examiner

Charles Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-46 and 48-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-46 and 48-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date JUNE 23, 2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-46, 48-53 and 56-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,864,830 *Armetta et al* in view of US 5,845,260 *Nakano et al*.

Regarding Claim 41, *Armetta* discloses the invention substantially as claimed, including in a computer-based method for allocating parental funds in established primary accounts for use by children (Col. 4, line 4, line 4 to Col. 6, line 57), steps of:

providing a preestablished primary account file containing parental funds for allocation to at least one child (Col. 3, lines 30-60);

creating a secondary account file accessible by a child for spending (Col. 3, line 61 to Col. 4, line 53); and

periodically transferring to said secondary account file at least a portion of the funds in said primary account use for use by said child (Col. 3, lines 46-60).

Armetta does not specifically disclose that the child uses funds to spend on audio and video entertainment in the form of goods and services. *Nakano* discloses this limitation, and limitation of such spending, at Abstract and Summary of the Invention, at least. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the

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limitation of audio/video spending capacity disclosed by *Nakano* in the satellite account method of *Armetta* because this would provide parents an effective control over the child's spending on activities of limited benefit to the child.

As to Claim 42, *Armetta* discloses storing information on spending at Col. 6, lines 38-43; *Nakano* discloses such storage for audio/video spending at Fig. 5 and Col. 5, line 44 to col. 6, line 10. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the particular limitation of storing data on audio/video spending of *Nakano* in the method of *Armetta* to keep parents apprised of the child's spending on these goods and services.

As to Claims 43 and 44, *Armetta* discloses periodic supplying of spending information to a parent at Col. 6, lines 38-43.

Regarding Claims 45 and 46, Official Notice is taken that weekly or monthly automatic transfer of funds to a recipient's account was old and well known at the time of the Invention. For example, automatic direct deposit of payroll to a recipient's bank account was done on a weekly or monthly basis. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Armetta* to make deposits in this manner because this would allow a parent to provide "payroll" (an allowance, old and well known) to a dependent child.

As to Claim 48, see the discussion of Claim 49 and *Nakano* discloses limiting how funds may be spent in response to command instructions from the fund depositor at Col. 7, lines 43-51.

With respect to Claim 49, as to the feature wherein a transaction amount is limited, the Examiner notes that a transaction limit is imposed when a limited amount is available in the child's account; a \$50 balance in the account means a transaction is limited to \$50.

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As to Claims 50-51, see the discussion of Claims 45-46; exhaustion of funds periodically deposited would serve as a periodic (weekly or monthly) limit on spending. Once the money is spent, spending is most effectively limited.

With respect to Claim 52, *Nakano* discloses providing a video game at Fig. 1, and Col. 3, lines 11-20 and movies at Col. 4, lines 8-25.

With respect to Claim 53, provision of children's' entertainment on video tape was old and well known at the time of the invention.

Regarding Claim 56, *Armetta* discloses a primary account as a credit account at Col. 3, lines 30-60, at least.

Regarding Claims 57-58, *Nakano* discloses spending on audio or video entertainment over the Internet using an Internet account at Col. 3, lines 11-35.

Claims 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,864,830 *Armetta et al* in view of US 5,845,260 *Nakano et al* and further in view of US 5,485,519 *Hunter*.

As to Claims 54-55, *Armetta* discloses the invention substantially as claimed. See the discussion of Claim 48. *Armetta* does not specifically disclose limitation by content rating. *Hunter* discloses this limitation at Abstract and Summary of the Invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Armetta* to include limiting content rating as in *Hunter* because this would allow parents a tool to prevent viewing of objectionable material by the child. The need of such limits is made clear by the use of the V-Chip in televisions to screen children's' viewing material.

Response to Arguments

Applicant's arguments filed June 20, 2005 have been fully considered but they are not persuasive.

At page 5 of Remarks, Applicant states that Claim 47 was not included in the prior art rejections. This is incorrect. The Examiner included Claim 47 in the rejection of Claims 5 and 24 at page 5 of the prior office action. Applicant further states that the limitations of Claim 47 are now included in Claim 41. This is incorrect. Applicant has included some of the limitations, but not all, and added new limitations. Specifically, original Claim 47 recited “creating a primary *deposit* file *containing a record of funds deposited by said depositor*” and “transferring to said secondary *deposit* file *in response to command instructions from said depositor*”. The limitations italicized are not present in Claim 41 in its present form. The type of file recited is a deposit file in Claim 47 and account file in current Claim 41. “Customer” has been changed to “child” and the concept of parental funds are new limitations in Claim 41.

As to Applicant's comments in the 37 C.F.R. Declaration, they are not persuasive. Applicant attempts to show possession of the claimed invention at January 4, 1996, predating the *Nakano* reference. Applicants originally filed documents, quoted at page 3 of the Declaration, contains no evidence that the claimed invention *as a whole* was in the Inventor's possession at that date, and is thus ineffective to swear behind *Nakano*. See MPEP 715.02.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (571) 272-6746. The examiner can normally be reached on 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

crk
August 31, 2005

Examiner Charles Kyle

A handwritten signature in black ink, appearing to read "Charles Kyle", with a stylized flourish at the end.